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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Andrew Vladimirovich Kulikov,)	CIV-09-923-PHX-PGR (MHB)
Petitioner,)	REPORT AND RECOMMENDATION
vs.)	
Katrina Kane,)	
Respondent.)	

TO THE HONORABLE PAUL G. ROSENBLATT, UNITED STATES DISTRICT JUDGE:

Petitioner Andrew Vladimirovich Kulikov (A070-390-183) has filed a *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 alleging that immigration officials are holding him in detention pending his removal to Russia. Petitioner argues that he is entitled to release from custody because his detention with no prospect that his removal will be effected in the reasonably foreseeable future is not authorized by law. See Zadvydas v. Davis, 533 U.S. 678 (2001) (when there is no reasonable likelihood that a foreign government will accept an alien’s return in the reasonably foreseeable future, the INS may not detain the alien for more than the presumptively reasonable period of six months).

On July 22, 2009, Respondent filed a notice of Suggestion of Mootness (Doc. #9) indicating that Petitioner was released from custody and placed under an Order of Supervision on July 17, 2009. See Abdala v. INS, 488 F.3d 1061, 1064 (9th Cir. 2007) (“[A] petitioner’s release from detention under an order of supervision ‘moots his challenge to the legality of his extended detention.’”) (quoting Riley v. INS, 310 F.3d 1253, 1256-57 (10th Cir. 2002)). Accordingly, on July 28, 2009, the Court ordered Petitioner to show cause why

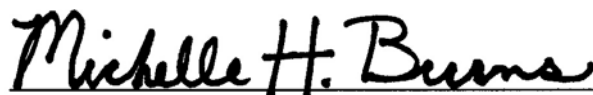
1 his Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 should not be
2 dismissed as moot in light of his release from custody. (Doc. #10.) On August 10, 2009,
3 Petitioner filed a request to voluntarily dismiss his Petition. (Doc. #11.)

4 It appearing that the relief requested in Petitioner's habeas petition has been granted,
5 and both parties agree that the habeas petition is now moot and should, therefore, be
6 dismissed, the Court will recommend that Petitioner's Petition for a Writ of Habeas Corpus
7 be dismissed.

8 **IT IS THEREFORE RECOMMENDED** that Petitioner's Petition for a Writ of
9 Habeas Corpus pursuant to 28 U.S.C. § 2241 (Doc. #1) be **DISMISSED** as moot and without
10 prejudice.

11 This recommendation is not an order that is immediately appealable to the Ninth
12 Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of
13 Appellate Procedure, should not be filed until entry of the district court's judgment. The
14 parties shall have ten days from the date of service of a copy of this recommendation within
15 which to file specific written objections with the Court. See 28 U.S.C. § 636(b)(1);
16 Fed.R.Civ.P. 6(a), 6(b) and 72. Thereafter, the parties have ten days within which to file a
17 response to the objections. Failure to timely file objections to the Magistrate Judge's Report
18 and Recommendation may result in the acceptance of the Report and Recommendation by
19 the district court without further review. See United States v. Reyna-Tapia, 328 F.3d 1114,
20 1121 (9th Cir. 2003). Failure to timely file objections to any factual determinations of the
21 Magistrate Judge will be considered a waiver of a party's right to appellate review of the
22 findings of fact in an order of judgment entered pursuant to the Magistrate Judge's
23 recommendation. See Fed.R.Civ.P. 72.

24 DATED this 18th day of August, 2009.

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26 _____

Michelle H. Burns
United States Magistrate Judge